

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Angel Riddle	Team: Squad #05	CCRB Case #: 202202485	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 04/11/2022 9:05 AM, Monday, 04/11/2022 10:49 AM	Location of Incident: Ocean Avenue and Avenue N; 70th Precinct stationhouse	18 Mo. SOL 10/11/2023	Precinct: 70		
Date/Time CV Reported Tue, 04/19/2022 2:27 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 04/19/2022 2:27 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Jasmin Nikocecic	10577	939118	070 PCT
2. SGT Carlo Chu	02043	941560	070 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Jasmin Nikocecic	Force: At Ocean Avenue and Avenue N in Brooklyn, Police Officer Jasmin Nikocecic used physical force against § 87(2)(b)	
B. PO Jasmin Nikocecic	Abuse: At Ocean Avenue and Avenue N in Brooklyn, Police Officer Jasmin Nikocecic issued a retaliatory summons to § 87(2)(b)	
C. PO Jasmin Nikocecic	Abuse: At Ocean Avenue and Avenue N in Brooklyn, Police Officer Jasmin Nikocecic seized § 87(2)(b) property.	
D. SGT Carlo Chu	Abuse: At the 70th Precinct stationhouse, Sergeant Carlo Chu failed to process § 87(2)(b) complaint regarding an officer.	

Case Summary

On April 19, 2022, § 87(2)(b) filed this complaint via the CCRB's website.

On April 11, 2022, at approximately 9:05 a.m., in the vicinity of Ocean Avenue and Avenue N in Brooklyn, § 87(2)(b) was pulled over by Police Officer Jasmin Nikocecic of the 70th Precinct and issued a summons for failure to yield. § 87(2)(b) used profanity toward PO Nikocecic after receiving the summons, and PO Nikocecic took the summons back, allegedly with such force that he bruised § 87(2)(b) hand (**Allegation A: Physical Force**, § 87(2)(g)). PO Nikocecic then issued § 87(2)(b) two additional summonses (**Allegation B: Abuse of Authority**, § 87(2)(g)). PO Nikocecic allegedly failed to return § 87(2)(b) license and left the scene with it (**Allegation C: Abuse of Authority**, § 87(2)(g)). At approximately 10:49 a.m., § 87(2)(b) arrived at the 70th Precinct stationhouse where Sergeant Carlo Chu allegedly failed to process his complaint against PO Nikocecic (**Allegation D: Abuse of Authority**, § 87(2)(g)).

§ 87(2)(b) received three summonses for failure to yield for pedestrians, failure to comply with a lawful order, and failure to signal (**BR01**).

The investigation obtained BWC footage and cell phone footage taken by § 87(2)(b) capturing the entirety of the initial car stop (**BR02-05**, summarized at **BR06-07**). The investigation also obtained stationhouse CCTV footage capturing § 87(2)(b) interactions with Sgt. Chu (**BR08-16**, summarized at **BR17**). All references to video evidence below refer to the time stamp in the video player, and not to any on-screen clock embedded in the footage itself.

Sgt. Chu has since been promoted to the rank of lieutenant and reassigned to the 66th Precinct.

Findings and Recommendations

Allegation (A) Force: At Ocean Avenue and Avenue N in Brooklyn, Police Officer Jasmin Nikocecic used physical force against § 87(2)(b).

Allegation (B) Abuse of Authority: At Ocean Avenue and Avenue N in Brooklyn, Police Officer Jasmin Nikocecic issued a retaliatory summons to § 87(2)(b).

Allegation (C) Abuse of Authority: At Ocean Avenue and Avenue N in Brooklyn, Police Officer Jasmin Nikocecic seized § 87(2)(b) property.

During his initial phone statement and his interview (**BR18-19**), § 87(2)(b) stated that after PO Nikocecic issued him a summons, he began to argue with PO Nikocecic about whether he had failed to yield for pedestrians. Feeling that he had been unfairly ticketed, § 87(2)(b) called PO Nikocecic a “piece of shit” and told him, “Fuck you.” After § 87(2)(b) made these comments, PO Nikocecic turned about and asked what he said. When § 87(2)(b) answered that he had freedom of speech, PO Nikocecic answered, “Oh yeah?” PO Nikocecic then reached into the car window and snatched the summons and § 87(2)(b) license out of his hand. In taking the summons and license from § 87(2)(b) hand, PO Nikocecic hit § 87(2)(b) palm and fingers. Following this incident, the parts of § 87(2)(b) hand that PO Nikocecic hit turned blue, red, and black, and remained that way for at least two weeks. § 87(2)(b) did not seek any medical attention for or provide photos of his alleged injuries.

When PO Nikocecic returned, he handed § 87(2)(b) three pieces of paper and told him, “Here is your ID.” At no point did PO Nikocecic indicate that § 87(2)(b) had committed any crimes or violations other than failing to yield for pedestrians, which led § 87(2)(b) to believe that PO

Nikocevic issued these summonses in retaliation for § 87(2)(b) disrespecting him. After PO Nikocevic drove away from the scene, § 87(2)(b) realized that PO Nikocevic had not returned his ID as he said he had. At the time of his interview, § 87(2)(b) had not located his ID and instead had requested a new one from the Department of Motor Vehicles.

PO Nikocevic's BWC footage (BR02, beginning at 1:14) shows him approaching § 87(2)(b) telling him that he failed to yield for a pedestrian, and requesting his license. At 6:15, PO Nikocevic hands § 87(2)(b) one summons and then starts to walk back to his car. At 6:40 PO Nikocevic asks, "Excuse me?" He returns to § 87(2)(b) vehicle and asks him to repeat what he said. § 87(2)(b) answers, "You heard what I said." PO Nikocevic replies, "Good," takes § 87(2)(b) license along with the summons off the dashboard and walks back to his vehicle. At 11:52, PO Nikocevic hands § 87(2)(b) two additional summonses and his license. It is apparent that PO Nikocevic is no longer holding § 87(2)(b) license in either hand by the conclusion of the incident.

In the cellphone footage § 87(2)(b) provided (BR05, beginning at 2:00), PO Nikocevic tells § 87(2)(b) that he is getting a ticket for failing to stop for pedestrians. At 2:22 § 87(2)(b) asks how many pedestrians he failed to stop for and PO Nikocevic answers that they can discuss this in court. § 87(2)(b) answers, "You're not gonna tell me what I'm charged with? Piece of shit, fuck you. Fuck you."

PO Nikocevic testified (BR20) that he observed § 87(2)(b) fail to signal before turning and fail to yield to pedestrians. PO Nikocevic chose to use his discretion and to only issue § 87(2)(b) a summons for the failure to yield. In addition, while PO Nikocevic was in his RMP writing the first summons, § 87(2)(b) stepped out of his vehicle to speak with him and PO Nikocevic ordered him to get back in his vehicle. § 87(2)(b) complied and got back into his vehicle after about one minute. After PO Nikocevic provided § 87(2)(b) with the summons, § 87(2)(b) yelled, "Go fuck your mother," out of his window. After PO Nikocevic heard this, he returned to § 87(2)(b) vehicle, retrieved the summons and ID from the dashboard, and returned to his RMP. PO Nikocevic wrote § 87(2)(b) two additional summonses, one for failing to comply with a lawful order and one for failing to signal. PO Nikocevic explained that because § 87(2)(b) was being respectful and cooperative at the beginning of their interaction, he initially used his discretion to give § 87(2)(b) a break on his additional violations. When § 87(2)(b) began to yell profanities in a high traffic residential area, PO Nikocevic decided to rescind that discretion. PO Nikocevic returned § 87(2)(b) license to him and denied taking it.

§ 87(2)(g)

§ 87(2)(b) The BWC footage also captures PO Nikocevic approaching § 87(2)(b) vehicle with his license and three summonses, placing them inside of the car, and walking away without anything in either of his hands.

NYPD Administrative Guide Procedure 304-06 prohibits officers from engaging in conduct prejudicial to the good order, efficiency, or discipline of the Department (BR21). In DCT Disciplinary Case No. 80514/04, a 13-year member of the NYPD forfeited ten vacation days and received reinstruction regarding the Department's Courtesy, Professionalism, and Respect policy for issuing summonses as a weapon of retaliation against a complainant who called him a "fucking liar" in traffic court and another who told him to have a "nice fucking day" during a car stop. The officer was found to have "allowed his personal feelings to cloud his judgment as an officer of the law" (BR22).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) PO Nikocec began to walk away with the intention of ending the car stop after issuing § 87(2)(b) with one summons, and then returned to issue additional summonses after § 87(2)(b) yelled out profanities at him, § 87(2)(g)

§ 87(2)(g)

Allegation (D) Abuse of Authority: At the 70th Precinct stationhouse, Sergeant Carlo Chu failed to process § 87(2)(b) complaint regarding an officer.

Shortly after his interaction with PO Nikocec, § 87(2)(b) went to the 70th Precinct stationhouse. § 87(2)(b) spoke with Sgt. Chu and complained that PO Nikocec issued him two retaliatory summonses and failed to return his license. Sgt. Chu initially responded by giving § 87(2)(b) the phone numbers for the CCRB and for IAB. After Sgt. Chu spoke with PO Nikocec and helped § 87(2)(b) search for his license inside his vehicle, he told § 87(2)(b) to return to the stationhouse later so that they could file a complaint together when Sgt. Chu had more time. When § 87(2)(b) returned to the stationhouse for a second time at about 1:30 p.m., Sgt. Chu told him that he still did not have time to file a report then, but that it would be done if § 87(2)(b) returned later in the day. Sometime after 3 p.m., § 87(2)(b) came to the stationhouse for the third time, and Sgt. Chu told him that he was still too busy to write a report. After this visit, § 87(2)(b) decided that he would not return and would file a complaint on his own.

Stationhouse security footage (BR08, beginning at 00:19:48) captures § 87(2)(b) entering at 10:49 a.m. and speaking with Sgt. Chu for approximately 30 minutes. At 1:30 p.m. (03:00:57 in the video player), § 87(2)(b) returns to the stationhouse and speaks with Sgt. Chu for approximately 20 minutes. The investigation obtained footage up until 4:30 p.m., and it does not show § 87(2)(b) returning again during that time. As § 87(2)(b) could say only that his third visit occurred sometime after 3 p.m., it cannot be determined whether the lack of such a visit in the footage indicates that it did not take place.

Sgt. Chu confirmed (BR23) that § 87(2)(b) complained that PO Nikocec wrote him a ticket and failed to return his license to him. When Sgt. Chu asked § 87(2)(b) to wait until PO Nikocec returned so that they could discuss the issue and make a report, § 87(2)(b) answered that he did not have time and would return later. Sgt. Chu answered that this was fine, and provided him with the phone numbers, email addresses, and additional information for the CCRB and IAB in case he did not return. § 87(2)(b) said that he did not need the information, but Sgt. Chu insisted that he take it anyway. A few hours later, § 87(2)(b) returned to the stationhouse and asked if the officers had located his license. Sgt. Chu told him that he had reviewed PO Nikocec's BWC footage from the incident, and that it showed PO Nikocec returning the license. Sgt. Chu offered to help § 87(2)(b) search in his vehicle for it. After Sgt. Chu was unable to locate the

license in § 87(2)(b) vehicle, he offered to make an IAB report for him at the stationhouse. § 87(2)(b) answered that he did not have time to file the complaint at the stationhouse. Sgt. Chu responded that he would make the IAB complaint for § 87(2)(b) on his behalf and again provided § 87(2)(b) with the information for the CCRB and IAB. Sgt. Chu prepared a command log entry documenting each of § 87(2)(b) visits to the station house. Sgt. Chu denied that § 87(2)(b) returned to the stationhouse on a third occasion that day.

Sgt. Chu prepared command log entries at 11:25 a.m. and at 2:25 p.m. documenting § 87(2)(b) visits to the stationhouse (BR24). The first entry states that § 87(2)(b) complained that PO Nikocec took his ID, that Sgt. Chu offered to take the complaint for him, and that § 87(2)(b) said he did not have time to do it at that moment. It also states that Sgt. Chu offered IAB's phone number and all available options for a CCRB complaint. The second entry states that § 87(2)(b) returned to ask if officers had located his ID, that he was again offered the opportunity to file a report, and that he declined and said he would return. The investigation obtained command log entries stretching until the end of the day and confirmed that there was no entry documenting a third visit to the stationhouse by § 87(2)(b).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR25).
- PO Nikocec has been a member of the NYPD for 17 years and has been a subject in 17 previous CCRB complaints and 35 allegations, of which three were substantiated:
 - 200708831 involved a substantiated allegation of discourtesy against PO Nikocec. The NYPD imposed Command Discipline B. 202003477 involved substantiated allegations of refusal to provide name and failure to provide shield number. The Board recommended Command Discipline A and the NYPD imposed no penalty. § 87(2)(g)
- Sgt. Chu has been a member of the NYPD for 16 year and has been a subject in six previous CCRB complaints and seven allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- On January 20, 2023, the investigation requested a copy of any Notice of Claim filed regarding the incident from the NYC Comptroller's office (BR26). The response will be added to the digital case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 5

Investigator: Angel Milagros Riddle
Signature

Inv. Angel Milagros Riddle
Print Title & Name

February 14, 2023
Date

Squad Leader:	<u>Daniel Giansante</u> Signature	<u>IM Daniel Giansante</u> Print Title & Name	<u>February 14, 2023</u> Date
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Reviewer:	<u></u> Signature	<u></u> Print Title & Name	<u></u> Date
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